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Tara N. Richards

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**No Evidence of “Weaponized Title IX” Here: An Empirical Assessment of Sexual
Misconduct Reporting, Case Processing, and Outcomes**

Dr. Tara N. Richards

Author Note

Dr. Tara N. Richards, School of Criminal Justice, University of Baltimore.

Dr. Tara N. Richards is now at the School of Criminology and Criminal Justice, University of Nebraska, Omaha.

Correspondence concerning this article should be addressed to Dr. Tara N. Richards, School of Criminology and Criminal Justice, University of Nebraska, Omaha, 6001 Dodge Street, 218 CPACS, Omaha, NE 68182-0149.

Contact: tararichards@unomaha.edu

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Abstract

Little is known about actual incidents of gender-based violence reported by college students or the campus adjudication process or outcomes of reported cases. Data from Annual Security Reports (ASRs) and Title IX Coordinators was used to examine the context, processes, and outcomes of reported incidents of sexual misconduct (n=1,054) at Institutions of Higher Education (IHEs) in a Mid-Atlantic state. Results showed that ASRs undercounted incidents of sexual misconduct. Few incidents reported to Title IX Coordinators resulted in a formal Title IX complaint, and fewer still resulted in a finding of responsibility or suspension/expulsion of the responsible student. The primary outcome of reports were victim services, not perpetrator punishments. Significant variability within and between IHE types was also uncovered. Findings suggest that better data collection as well as research on victim engagement in the Title IX complaint process and on sexual misconduct at Community Colleges and Independent IHEs is needed.

Key Words: Gender-based violence, Clery Act, Title IX, Annual Security Reports

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Public Impact Statement

Data from Annual Security Reports and Title IX Coordinators at Institutions of Higher Education (IHEs) in a Mid-Atlantic state showed that sexual misconduct is underreported to the public and rarely results in formal Title IX complaints. Findings call into question the Department of Education's argument underlying the withdrawal of Title IX guidance from 2011 and 2014. Results demonstrate a critical need for data collection efforts regarding reports of sexual misconduct among college students, and for any new approaches to Title IX guidance to be data-driven.

Introduction

Decades of victimization surveys have identified that gender-based violence – including rape, sexual assault, domestic violence, dating violence, and stalking – is a significant problem among college students (for a review, see Fedina, Holmes, & Backes, 2016). Estimates suggest that as many as 25% of college women experience a sexual assault during their college career (Fisher, Cullen, & Turner, 2000) and as many as 32% experience dating violence (White & Koss, 1991). Further estimates for other types of sexual misconduct (e.g., attempted or completed unwanted kissing, sexual touching using physical force, threat of physical force, and/or verbal coercion) indicates that as many as 34% of college women experience such behavior (Minow & Einolf, 2009).

In light of these prevalence estimates, research must move beyond asking questions about whether gender-based violence is happening on college campuses and examine what happens when invariably an incident occurs. But, at present, there is limited publicly available information about incidents of gender-based violence on college campuses. And, likewise, there is a paucity of empirical research regarding the campus adjudication process or outcomes of incidents reported by college students (for a discussion see Cantalupo, 2014; Richards, 2016). This void in scientific knowledge limits policy makers' abilities to make data-driven decisions regarding campus policies and procedures. To fill this critical gap in the current knowledge, the present study uses data from Annual Security Reports and from Title IX Coordinators at Institutions of Higher Education (IHEs) in a Mid-Atlantic state to first compare “publicly reported” (assaults reported in Annual Security Reports) and “internally reported” (assaults reported to Title IX Coordinators) incidents of gender-based violence. Then, the context, process, and outcomes of incidents internally reported to Title IX Coordinators are examined. Finally,

differences in incident and outcome information within and between institutional type – 4-Year Public IHEs, Community Colleges, and Independent IHEs – are evaluated. Findings are used to provide recommendations for policy advancements as well as suggestions for systematic data collection efforts and future research.

Context of Gender-Based Violence on College Campuses

Since Mary Koss's (1987) seminal research on sexual assault among college women, multiple nationally representative studies have been conducted in an attempt to gather more accurate estimates and richer contextual information on sexual assault among college students in the United States (e.g., Fisher et al., 2000; Kilpatrick, Resnick, Ruggiero, Conoscenti, & McCauley, 2007; Krebs, Lindquist, Warner, Fisher, & Martin, 2007). A recent meta-analysis identified 34 studies since 2000 that report prevalence findings on sexual assault or rape experienced by US college students since enrolling in college (Fedina et al., 2016). Reported prevalence rates suggest that as many as 8.4% of college women and 0.6% of college men experience forced vaginal, anal, or oral intercourse and as many as 14.2% of college women and 1.9% of college men experience incapacitated rape (i.e., completed vaginal, anal, or oral intercourse while intoxicated or while on drugs; see Fedina et al., 2016). Top-end prevalence rates for other forms of sexual assault estimate that more than 30% of college women and men experience behaviors such as unwanted kissing and sexual touching (see Fedina et al., 2016).

Regarding the situational context, prior research indicates that assaults among college students often involve individuals who know each other as acquaintances, friends, dates, or classmates (Belknap & Erez, 2007; Fisher, Daigle, & Cullen, 2010; Rennison & Addington, 2014). And, drug and/or alcohol use by the alleged perpetrator and/or the alleged victim prior to the assault is common (Fisher et al., 2010; Kilpatrick et al., 2007; Krebs et al., 2007) with

research showing that serial perpetrators often use alcohol to facilitate sexual assault (Abbey, 2002; Carr & VanDeusen, 2004). Further, sexual assaults among college students rarely include the use of a weapon (Fisher, Daigle, Cullen, & Turner, 2003; Rennison & Addington, 2014) or result in physical injuries outside of the sexual assault (Fisher et al., 2003; Krebs et al., 2007; Rennison & Addington, 2014).

Given that sexual assault among college students does not often look like “real rape” (i.e., involve known perpetrators and victims, rarely include injuries or weapons) (Estrich, 1987), it follows that few college student victims report their assaults to the police: reporting estimates range from 5% to 22% in the published literature (DeKeseredy & Schwartz, 1998; Fisher et al., 2000; Sloan, Fisher, & Cullen, 1997). At the same time, the majority of college student victims do tell someone about the assault such as a friend, family member, or a professor (Cantor, Fisher, Chibnall, Townsend, Lee, Bruce, & Thomas, 2015; Fisher et al., 2003; Richards, Branch, & Hayes, 2013). And, while prior research from the Campus Sexual Assault Study and the College Women’s Sexual Assault Victimization Study found that few victims reported to counseling or health services (from 1% to 15%; Fisher et al., 2003; Krebs et al., 2007), more recent research suggests that college student victims may be reporting to support services at increased rates. For example, a 2015 survey of more than 150,000 college students across 27 institutions conducted by the Association of American Universities found that 25.5% of student victims of rape by force and 13% of student victims of rape by incapacitation reported disclosing to at least one resource on or off campus from a list provided by their school (Cantor et al., 2015).

Relevant Legislation

The ways in which IHEs respond to gender-based violence, or sexual misconduct as it is commonly termed in IHE settings, are governed by several pieces of interrelated federal

legislation and associated guidance. Firstly, *Title IX of the Education Amendments of 1972 to the Civil Rights Act of 1964* (i.e., Title IX) states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any education program or activity receiving Federal financial assistance” (20 U.S. Code § 1681). Sexual harassment has been established as a form of sex discrimination in IHEs under Title IX through civil case precedent (e.g., *Alexander v. Yale*, 631 F.2d 178 (2d Cir. 1980), and in 1997, the Office for Civil Rights first issued guidance on IHE’s obligations to respond to sexual harassment under Title IX (U.S. Department of Education, 1997). Then, in 2001, after two landmark Supreme Court decisions – *Gebser v. Lago Vista Independent School District*, 524 U.S. 274 (1998) and *Davis v. Monroe County Board of Education*, 526 U.S. 629, (1999) – revised guidance was issued reaffirming the compliance standards that the Office of Civil Rights uses in investigations and administrative enforcement of Title IX and explaining distinctions between these standards and those applicable to private litigation for monetary damages (U.S. Department of Education, 2001). Further, in 2006, a “Dear Colleague Letter on Sexual Harassment” was released which aimed to “increase awareness of sexual harassment” and remind schools of the “principles that a school should use to recognize and effectively respond to the sexual harassment of students in its programs and activities” (U.S. Department of Education, p.1).

A new wave of Title IX guidance and enforcement began in 2011 when the Office for Civil Rights published a second Dear Colleague Letter reaffirming schools’ obligations to address sexual harassment including sexual violence as a form of sex-based discrimination. As in previous guidance, the 2011 Dear Colleague Letter explained that when an IHE knows or should reasonably know about an allegation of sexual violence, the IHE has a duty to investigate the

allegation, remedy any hostile environments caused by the sexual violence, and ensure that the hostile environment does not reoccur. Further, the Dear Colleague Letter reaffirmed IHE's duty to designate a campus Title IX Coordinator; establish equitable grievance, investigative, and judicial procedures to promptly respond to complaints of sexual violence; notify complainants about their right to report the violence to law enforcement; and inform complainants about all available interim remedies such as housing accommodations, victim advocate and/or legal assistance, academic support, and physical and/or mental health services (U.S. Department of Education, 2011). Further guidance by the Office of Civil Rights has included "Questions and Answers on Title IX and Sexual Violence" that provided detailed answers to frequently asked questions regarding IHE compliance with Title IX (U.S. Department of Education, 2014).

In addition, the *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1990* (20 U.S.C.A. § 1092; i.e., "Clery Act") mandates that IHEs promote prevention and intervention strategies for crime victimization, gather data on crime in the campus community (including forcible and non-forcible sex offenses), and make this data available in an Annual Security Report by October 1 each year. Annual Security Reports must be compiled into one document and made accessible to all current and prospective students and employees. Further, Clery requires IHEs to afford certain rights to sexual assault victims: grant both the accuser and accused the same opportunity to have others present at any proceedings, inform both parties of the outcome of any disciplinary proceeding and any appeals process, and notify the individual reporting victimization of available counseling services and options to change academic and living situations.

The Violence Against Women Reauthorization Act's (VAWA) Campus Sexual Violence Elimination Act (SaVE Act; VAWA of 2013) expanded Clery's reporting provisions beyond

sexual violence to comprise information on incidents of other types of gender-based violence, including domestic violence, dating violence, and stalking in their Annual Security Reports. Campus SaVE also required that campus policies inform victims of their options to notify or not to notify law enforcement and their rights regarding no-contact and protective orders. Further, new standards for investigation and conduct hearings were outlined.

Most recently, in 2017, the Department of Education withdrew the 2011 Dear Colleague Letter and 2014 guidance on Title IX noting that neither went through the public “notice and comment period” where interested parties could provide input. Specifically, the Secretary of Education suggested that, “instead of working with schools on behalf of students, the prior administration weaponized the Office for Civil Rights to work against schools and against students” and that the “era of rule by letter was over” (Kreighbaum, 2017). As a result, the Department of Education issued notice that the Office of Civil Rights would revert back to the 2001 Revised Sexual Harassment Guidance and the 2006 Dear Colleague Letter on Sexual Harassment – both of which went through notice and comment – for Title IX investigations and enforcement.

In documents explaining these decisions, the Department of Education argued that “the 2011 and 2014 guidance documents may have been well intentioned, but those documents have led to the deprivation of rights for many students—both accused students denied fair process and victims denied an adequate resolution of their complaints” (U.S. Department of Education, 2017, p.1-2). However, a review of the new guidance raises questions about whether these dual concerns will be addressed: Schools are no longer required to resolve complaints within 60 days, no longer required to use the preponderance of the evidence standard (i.e., the standard which is commonly used for civil matters) in disciplinary hearings, and no longer encouraged to provide

complainants the right to appeal in cases where a respondent is found not-responsible (U.S. Department of Education, 2017, p.1). Further, the interim guidance allows schools to use “informal resolutions” such as mediation at their discretion, even in cases of sexual assault (U.S. Department of Education, 2017, p.1) which is a departure from the 2001 Revised Sexual Harassment Guidance which explicitly states that, “in some cases, such as alleged sexual assaults, mediation will not be appropriate even on a voluntary basis” (p. 21).”

Information on Incidents of Gender-Based Violence on College Campuses

Currently, the Annual Security Reports is the primary avenue for gathering information on incidents of gender-based violence on any given college campus. . As previously noted, Clery mandates that campuses report a myriad of categories of crime statistics including sexual offenses (i.e., rape, fondling, incest, and statutory rape) and domestic violence, dating violence and stalking (i.e., VAWA offenses) in their Annual Security Report. According to the Clery Handbook for Campus Safety and Security (2016), IHEs’ Annual Security Reports’ crime statistics must include “the number of all reported offenses, without regard to the findings of a court, coroner or jury, or the decision of a prosecutor... from the records of calls for service, complaints and investigations” (p. 3.2). In regard to sex offenses specifically, Annual Security Reports’ statistics are comprehensive in that they should include both attempted and completed acts and require that all reported acts be included in the Annual Security Report irrespective of a determination of consent (Clery Center for Security on Campus, 2016).

At the same time, IHEs must only disclose statistics for reported Clery Act crimes that occur within a certain geographic footprint referred to as the campus’s “Clery geography” which includes (1) on campus, (2) on public property within or immediately adjacent to the campus, and (3) in or on non-campus buildings or property that the IHE owns or controls. As noted by the

Clery Center for Security on Campus, “location is the key here—crimes that don’t occur within the IHE’s Clery Act geography are not included in the IHE’s Clery Act statistics, even if students or employees are involved” (2016, p. 2.1). Additionally, only crimes reported to campus security authorities (e.g., law enforcement and security officers and institutional staff who have significant responsibility for student and campus activities) are included in the Annual Security Report (Clery Center for Security on Campus, 2016).

Taken together – the use of the Clery geography and the fact that gender-based violence is underreported to law enforcement and security personnel who also serve as campus security authorities – the number of incidents of gender-based violence reported in Annual Security Reports likely represents a conservative estimate of the total number of such incidents that occur. Although empirical information on this subject is limited, the American Association of University Women (2014) examined Clery data from 11,000 campuses and found that 91% of IHEs disclosed 0 incidences of rape in their 2014 Annual Security Reports. In addition, a study from the Bureau of Justice Statistics and RTI International evaluated self-reports from over 23,000 students at 9 IHEs and found that approximately 67% of completed rapes that students stated they reported to campus authorities during the 2014-2015 academic year were accounted for in the IHEs’ Annual Security Reports (Krebs, Lindquist, Berzofsky, Shook-Sa, & Peterson, 2016). Other research by Yung (2015) suggests that universities may systematically underreport the number of sexual assaults in their Annual Security Reports. Examining the number of incidents of sexual assault, aggravated assault, robbery, and burglary reported by IHEs before, during, and after Department of Education audits, Yung found that the number of reported sexual assaults – and only sexual assaults – increased significantly during the period of an audit in comparison to the time period before or after the audit. Yung concluded that the increased

scrutiny of a Department of Education audit resulted in deliberate changes in an IHE's sexual assault reporting behavior in that IHEs reported a more complete picture of the "real" number of incidents of sexual assault reported on campus.

Furthermore, the completeness of an IHE's gender-based violence reporting in their Annual Security Report is also impacted by the definitions of sex offenses mandated by the Clery Act. Annual Security Reports utilize the FBI's Uniform Crime Report definitions of gender-based violence which are aligned with criminal statutes and thus are much more restrictive than the civil definitions of sexual misconduct used in IHE's Title IX nondiscrimination statements. Therefore, while rape and sexual assault as well as dating violence, domestic violence, and stalking should be included in Annual Security Reports, conduct such as verbal sexual harassment would be necessarily excluded from Annual Security Reports as they are outside the scope of "sex offenses" and "VAWA offenses" used by the Uniform Crime Report.

Investigation, Adjudication, and Outcomes of Gender-Based Violence on College Campuses

There is also a dearth of information regarding the investigation and adjudication process as well as the outcomes of cases of gender-based violence on college campuses (see Richards & Kafonek, 2016). Indeed, Cantalupo (2014) aptly notes that the only way to access such information is through the lengthy and complicated Freedom of Information Act request process, which would need to be completed for each IHE of interest.

The limited prior research suggests that historically, few incidents of gender-based violence were adjudicated through the campus conduct process. For example, a national study on campus sexual assault surveyed voting delegates of the National Association of Student Personnel Administrators and found that half of the institutions studied did not receive any

reports of sexual assault, and nearly two-thirds had not held any adjudicatory hearings for sexual assaults during a 3-year period (Penney, Tucker, & Lowry, 2000). More recently, a survey of 4-year universities spearheaded by Senator Claire McCaskill (2014) found that nearly 60% of IHEs sampled had not conducted a sexual assault investigation in the past 5 years with only 6% of the nation's largest public IHEs having conducted an investigation.

While there is a paucity of empirical research on case processing and outcomes there has been significant media attention on this topic. While conclusions from media reports cannot be viewed as generalizable, such information may be useful for crafting hypotheses for empirical testing. For example, reports from education media outlets such as *The Chronicle of Higher Education* and *Inside Higher Ed* as well as *BuzzFeed News* and *Huffington Post* have published stories detailing cases of student victims that were discouraged from reporting gender-based violence (Huckabee, 2013; Vendituoli, 2014) and retaliated against when they did report victimizations (Kingkade, 2016). Additionally, a *Huffington Post* analysis of data from 32 public and private IHEs found that suspension and expulsion in cases of sexual misconduct was rare: 26% of founded cases of sexual misconduct resulted in a suspension, while 17% resulted in expulsion of the responsible student (Kingkade, 2014). These same topics were also extensively reviewed in the documentary, *The Hunting Ground* (Kirby, 2015).

Further, some evidence suggests that there is wide variation in how IHEs respond to sexual misconduct dependent on institutional type (Karjane, Fisher, & Turner, 2000; Richards, 2016). Most recently, Richards examined a nationally representative sample of IHEs across seven institutional sectors and found discrepancies in IHEs' policies and practices regarding sexual misconduct by sector. Specifically, Richards found that private and public 4-year IHEs reported significantly greater rates of compliance with Title IX-mandated reporting procedures

(e.g., listing whom at the IHE to contact if a sexual assault occurs, informing students of their right to notify law enforcement after a sexual assault) and provided greater access to victim resources and information regarding IHE accommodations such as housing and schedule changes compared to 2-year IHEs (e.g., community colleges).

Differences in the adjudication process and outcomes of incidents of gender-based violence across IHE type is also likely impacted by variations in both the student body and the campus communities. For example, community college students are often older on average than students enrolled at 4-year universities (American Association of Community Colleges, 2015) such that significant numbers of community college students fall outside of the demographic most at risk for gender-based violence (18-24 years old). Further, 4-year IHEs are more likely to have greater numbers of residential students compared to community colleges, and likewise, have significant infrastructure for student services and greater cohesion among students and campus security authorities (American Association of Community Colleges, 2015).

Independent IHEs, which can range from for-profit schools to private schools to religiously affiliated schools, may face challenges given that many are small, and small schools often have few staff and services dedicated to student crime victimization generally, or gender-based violence specifically. Further, religiously affiliated schools may pose unique challenges for victims given the use of “honor codes” that prohibit students from sexual contact as well as drug and alcohol use (Brown, 2016). Honor codes may deter students who personally experience or witness gender-based violence from reporting these experiences or seeking services due to fears about punishment by the IHE.

Current Study

Although a large body of research has demonstrated that gender-based is a significant issue on college campuses (see Fedina et al., 2016; Rennison & Addington, 2014), little research to date has examined actual cases of gender-based violence reported on college campuses or the processing and/or outcomes of these cases. One of the key reasons for these omissions has been deficiencies in available data. The present research aims to overcome this issue by using information from a unique data collection effort on the part of a state Higher Education Commission in a Mid-Atlantic state. Specifically, publicly available data on incidents of gender-based violence from Annual Security Reports are compared to data from incidents of gender-based violence internally reported to Title IX Coordinators including Sexual Assault I (e.g., rape), Sexual Assault II (e.g., unwanted sexual touching), and “Other” Sexual Misconduct (e.g., dating violence, stalking). In addition, the context of incidents, case processing, and outcomes of internally reported cases are presented, and this information is compared across Public 4-Year IHEs, Community Colleges, and Independent IHEs. Based on the previously reviewed literature, the following hypotheses guided the present research.

Hypothesis 1: Reports of gender-based violence in Annual Security Reports will be lower than internal reports to Title IX Coordinators (Krebs et al., 2016; Yung, 2015). Given that even the most criminally-aggravated sexual assaults (i.e., forced rape) are underreported to law enforcement (Fisher et al., 2000), discrepancies will be most pronounced for incidents of “Other” Sexual Misconduct (e.g., dating violence, stalking).

Hypothesis 2: The majority of incidents of gender-based violence reported to Title IX Coordinators will not be reported to law enforcement (Fisher et al., 2000) or result in a formal Title IX complaint (i.e., campus investigation and adjudication process) (McCaskill, 2014;

Penney et al. 2000).

Hypothesis 3: The majority of cases processed through the formal Title IX adjudication process will not result in a finding of responsibility (Kingkade, 2014).

Hypothesis 4: The majority of cases with a finding of responsibility will not result in suspension or expulsion (Kingkade, 2014).

Hypothesis 5: Given differences in student demographics and the structure of the campus community (American Association of Community Colleges, 2015), Public 4-Year IHEs will report greater rates of incidents of Sexual Assault I and Sexual Assault II compared to Independent IHEs or Community Colleges (Karjane et al., 2000; Richards, 2016).

Hypothesis 6: Given differential compliance with Title IX policies and procedures (Karjane et al., 2000; Richards, 2016), Public 4-Year IHEs will indicate greater rates of reporting within 24-hours compared to Independent IHEs or Community Colleges.

Hypothesis 7: Community Colleges will report greater rates of incidents by non-student perpetrators and at off-campus locations than Public 4-Year or Independent IHEs.

Hypothesis 8: Public 4-Year IHEs will indicate greater rates of reporting to law enforcement compared to Independent IHEs or Community Colleges.

Hypothesis 9: Community Colleges will indicate lower rates of formal Title IX complaints compared to Public 4-Year or Independent IHEs.

Hypothesis 10: Public 4-Year IHEs will report finding students responsible for violating their code of conduct at greater rates than Independent IHEs or Community Colleges.

Methodology

Sample

The sample used here includes all Public 4-Year IHEs (n=13), Community Colleges (n=16), and Independent IHEs (n=13) operating in a Mid-Atlantic state. According to data from the National Center for Education Statistics Integrated Post-Education Data System, during the study period (2015-2016) the sampled IHEs (n=42) had a total enrollment of 357,591 students. The majority of students were enrolled in Public 4-Year IHEs (50.70%) compared to Community Colleges (34.80%) or Independent Institutions (14.50%). Female students represented the majority of all students attending these IHEs (55.31%); the greatest rates of female student enrollment were at Community Colleges (58.81%) and Independent IHEs (58.76%) compared to Public 4-Year IHEs (51.91%). The greatest racial/ethnic diversity was reported at Public 4-Year IHEs with an average of 61% of students identifying as non-White compared to an average of 45% of students at Community Colleges and Independent IHEs, respectively.

Data

Data were drawn from publicly available information on sexual misconduct presented in IHEs' Annual Security Reports (described in detail above) as well as non-public data internally reported to the state's Higher Education Commission (hereafter, "the Commission") by Title IX Coordinators pursuant to the passage of new state legislation in 2015. Per the legislation, in an effort to collect a standardized set of data on gender-based violence at the state's colleges and universities, beginning in academic year 2015-2016, institutions were required to report on all incidents via an incident report template provided by the Commission. According to the guidance from the Commission that accompanied the report template, an incident was defined as "an allegation of sexual assault or other sexual misconduct involving a student which was reported or

referred to the institution's Title IX Coordinator". More specifically, IHEs were required to report all student-related incidents (i.e., student-student, student-staff/faculty, student-non-student perpetrator) for which the student could be the alleged victim or perpetrator. To ensure consistent reporting of the incident data across IHEs, definitions of sexual assault and other sexual misconduct consistent with the state's university system's policy on sexual assault were developed and used for reporting by Title IX Coordinators.

Definitions included:

1. Sexual Assault I - non-consensual sexual intercourse: any act of sexual intercourse with another individual without consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.
2. Sexual Assault II - non-consensual sexual contact: any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without consent. Intimate parts may include genitalia, groin, breast, or buttocks, or the clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.
3. "Other" Sexual Misconduct - Incidents are included in this category if they relate to any other category of violence or misconduct as defined by the institution. These may include dating violence, domestic violence, sexual exploitation, sexual harassment, sexual intimidation, sexual violence, and stalking.

Each institution reported on the number of incidents of sexual assault or other sexual misconduct received by the IHE's Title IX Coordinator and classified each incident according to the previously described definitions of Sexual Assault I, Sexual Assault II, and "Other" Sexual

Misconduct. Additionally, IHEs reported contextual information on each incident, information about the Title IX process and outcomes including accommodations, and whether, to the Title IX Coordinator's knowledge, the incident was reported to law enforcement. Title IX Coordinators were responsible for compiling the data for their IHE and submitting it to the Commission. The data used for the present analysis was obtained directly from the Commission; the author requested the data from the Commissions' Office of Research and Policy Analysis.

In addition, each of the 42 IHE's Annual Security Reports for calendar year 2015 were downloaded from the IHE's website and the number of incidents for forcible and non-forcible sex offenses as well as VAWA offenses (i.e., dating violence, domestic violence, and stalking) were recorded in a study database. The University of Baltimore's Institutional Review Board approved this study.

Analytic Plan

Analyses began by comparing the number of incidents of Sexual Assault I, Sexual Assault II, and "Other" Sexual Misconduct reported by IHEs in the publicly reported data versus the internally reported data (see Table 1). Then, descriptive statistics for all study variables in the internally reported data were computed and discussed (see Table 2). Next, guided by the aforementioned hypotheses, a series of Chi-Square tests were used to estimate differences for each study variable across IHE type: Public 4-Year IHEs, Community Colleges, and Independent IHEs (see Tables 3 and 5). Effect sizes were determined using Cramer's V with larger values indicating a more robust relationship. Standardized residuals (Haberman, 1973) were calculated to determine which values contributed to the significant chi-square. Standardized residuals measure the difference between observed and expected frequencies as a function of the expected frequency value. An absolute value greater than 2 indicates that the corresponding frequency is a

contributor to the significant chi-square (Hinkle, Wiersma, & Jurs, 2003). One-way Analysis of Variance (ANOVA) tests were also used to assess mean differences nested within institutional types (see Tables 4 and 6). Post-hoc means tests were completed to determine which mean pairs were significantly different. Alpha was set at $p < .001$ for all analyses to reduce Type I error.

Results

Incidents of Sexual Misconduct: Internal versus Public Reports

First, the number of incidents of sexual misconduct internally reported to Title IX Coordinators during the 2015 academic year were presented and compared to the number of incidents of sexual misconduct publicly reported in Annual Security Reports in calendar year 2015 (see Table 1). Findings showed that 1,054 cases of sexual misconduct were reported to Title IX Coordinators at the state's Public 4-Year IHEs, Community Colleges, and Independent IHEs. In the majority of these internally reported cases, the incident was classified as "Other" Sexual Misconduct (e.g., sexual harassment, dating violence, domestic violence, or stalking; $n=692$, 65.65%), compared to Sexual Assault I (e.g., non-consensual sexual intercourse; $n=238$, 22.58%) or Sexual Assault II (e.g., non-consensual sexual contact; $n=105$, 9.96%) (See Table 1). The range and average number of incidents for each institutional type are also presented in Table 2; there was substantial variability across IHEs.

Comparatively, 346 publicly reported incidents of sexual misconduct were reported in IHE's Annual Security Reports. Similar to cases reported internally to Title IX Coordinators, the majority of publicly reported cases were classified as "Other" Sexual Misconduct ($n=195$; 56.20%) versus Sexual Assault I ($n=101$; 29.10%) or Sexual Assault II ($n=51$; 14.70%). Taken together, results demonstrated support for hypothesis 1; incidents of Sexual Assault I and II,

were reported to Title IX Coordinators at more than double the rates as those presented in Annual Security Reports, while incidents of “Other” Sexual Misconduct were reported to Title IX Coordinators at more than 3 times the rate reported in Annual Security Reports.

Table 1. Sexual Misconduct Incidents in Institutions of Higher Education: Internally Reported and Publicly Reported Data

Incident Type	Internally Reported Data Academic Year 2015		Publicly Reported Data Calendar Year 2015	
	N=1,054		N=347	
Sexual Assault I	238	22.58%	101	29.10%
Sexual Assault II	105	9.96%	51	14.70%
“Other” Sexual Misconduct	692	65.65%	195	56.20%

Note. Totals from Internally Reported Data omit 22 cases (n=1,035) because Title IX Coordinators had too little information to classify these cases.

Context of Internally Reported Incidents of Sexual Misconduct

Next, information on the context, case processes, and outcomes of incidents of sexual misconduct reported to Title IX Coordinators at Public 4-Year IHEs, Community Colleges, and Independent IHEs were examined (See Table 2). Findings showed that of the 1,054 reported incidents more than 30% were reported within 24 hours of the incident versus the same semester (48.67%) or after a semester or more (20.59%). At least one non-student perpetrator was involved in 42.88% of incidents and more than half of incidents (57.30%) took place on campus or at a school sponsored activity rather than off campus (34.25%). To the Title IX Coordinator’s knowledge, 299 incidents (28.37%) were reported to law enforcement.

Findings also showed that consistent with hypothesis 2, the majority of incidents reported to Title IX Coordinators were not adjudicated through the formal Title IX process (n=796; 75.52%). When incidents were adjudicated through the formal Title IX process (n=258; 24.48%),

as hypothesized (hypothesis 3), less than half of incidents resulted in a finding of responsibility (n=119; 46.12%), and, as expected (hypothesis 4) fewer than half of those cases were sanctioned with either suspension (n=34; 28.57%) or expulsion (n=22; 18.49%) of the responsible student. In the majority of cases with a finding of responsibility (n=68; 57.14%), “other” sanctions such as drug and/or alcohol treatment or education/training were employed. However, more than one disciplinary action could be used for an incident such that, for example, a student may have been both mandated to drug treatment and suspended as a result of the same incident. In 30.25% of cases with a finding of responsibility (n=36), the responsible student exercised his/her right to appeal the finding. In regard to accommodations for student victims, 71.63% (n=755) were referred to counseling, 29.13% (n=307) were assisted with obtaining a no-contact orders against the alleged perpetrator, 20.30% (n=215) received academic accommodations, and 6.36% (n=67) were assisted with obtaining alternative housing; accommodations were not mutually exclusive such that students may have received multiple accommodations.

Table 2. Internally Reported Sexual Misconduct Incident Information, Title IX Processes, and Case Outcomes for Institutions of Higher Education: Academic Year 2015

	Number of Incidents (N=1,054)	Percent of Incidents	Mean (SD) per Institution (N = 42)
Time to Report			
Number of incidents reported within 24 hours	325	30.74%	25.10 (31.58)
Number of incidents reported within the same semester	513	48.67%	7.71 (9.86)
Number of incidents reported after a semester or more	217	20.59%	12.21 (15.95)
Number of incidents with non-student perpetrator/s	452	42.88%	10.76 (14.29)
Incident Location			
On campus or school sponsored activity	605	57.30%	14.40 (16.25)
Off campus	361	34.25%	8.60 (12.65)
Undisclosed	88	8.35%	2.26 (5.19)

Reports to law enforcement	299	28.37%	712 (11.14)
Formal Title IX complaints	258	24.48%	6.14 (6.79)
Finding of responsibility	119	46.12%	2.83 (3.12)
Disciplinary Action			
Suspension	34	28.57%	0.85 (1.26)
Expulsion	22	18.49%	0.55 (0.86)
Other	68	57.14%	1.74 (2.57)
Appeals	36	30.25%	0.88 (1.23)
Accommodation			
Alternative housing	67	6.36%	1.60 (3.77)
Referral to counseling/health services	755	71.63%	17.98 (27.24)
No-contact order or stay away order	307	29.13%	7.31 (7.90)
Interim suspension	52	4.93%	1.24 (1.63)
Academic accommodations	214	20.30%	5.22 (6.53)
Other	217	20.59%	5.56 (8.42)

Note. More than one disciplinary action could occur for each formal complaint. Multiple accommodations could be made for each incident.

Comparisons of Internally Reported Incidents by IHE Type

Next, incidents were disaggregated by IHE type and Chi-Square significance tests were used to examine potential differences between Public 4-Year IHEs, Community Colleges, and Independent IHEs (see Table 3). The average number of incidents per IHE in each category and mean differences by IHE type are also presented in Table 4. Findings revealed that the majority of incidents were reported to Title IX Coordinators at 4-Year Public IHEs (60.15%), compared to Community Colleges (16.03%), or Independent IHEs (23.81%). In regard to incident type, the greatest number of incidents across IHE type was categorized as “Other” Sexual Misconduct, followed by Sexual Assault I, and Sexual Assault II.

Significant differences regarding the expected versus the actual proportion of incidents in each classification by IHE type were uncovered, $\chi^2(4) = 44.35, p < .001$, with a small effect size, $V = .15$. Post-hoc tests using standardized residuals indicated that contrary to hypothesis 5, reports for Sexual Assault I were significantly greater at Independent IHEs ($z = 2.4$), not 4-Year IHEs. Significantly lower rates of Sexual Assault I were observed at Community Colleges ($z = -4.8$) and significantly higher rates of “Other” Sexual Misconduct incidents were observed at Community Colleges ($z = 2.6$). No significant differences were found regarding the observed versus expected rates of Sexual Assault II incidents across IHE types. Further institutional-level analysis revealed significant differences in the average number of incidents by incident type across IHE categories, $F(2, 123) = 9.42, p < .001, \eta^2 = .13$. Specifically, the average number of incidents of Sexual Assault I reported at 4-Year Public IHEs was higher than the average number of incidents reported at Community Colleges, $t(27) = -4.14, p < .001, d = 1.54$.

Regarding time to reporting, significant differences in the observed versus expected rates of incidents reported within 24 hours, the same semester, and after a semester or more by IHE

type were identified, $\chi^2(4) = 22.62, p < .001$; however, the effect size was relatively weak, $V = .15$. Post-hoc tests using standardized residuals indicated that, contrary to hypotheses 6, Title IX Coordinators at Community Colleges, not 4-Year Public IHEs, were notified within 24 hours of an incident at significantly higher rates ($z = 3.2$). Post-hoc tests also demonstrated that Title IX Coordinators at Community Colleges were notified about incidents after a semester or more at significantly lower rates than would be expected by chance ($z = -2.5$). No significant differences were identified regarding the proportion of incidents reported within the same semester. Institutional-level differences in time to reporting were also identified $F(2, 123) = 15.25, p < .001, \eta^2 = .20$. Mean differences were found between the average number of incidents reported within the same semester at 4-Year Public IHEs and Community Colleges, $t(27) = -3.61, p < .001, d = 1.28$.

Additionally, significant differences were found in terms of whether the incident took place on campus or at a school sponsored event versus off campus by IHE type, $\chi^2(2) = 16.63, p < .001$, but again, the effect size was weak, $V = .13$. Post-hoc tests indicated that none of the standardized residuals for incident location were greater than an absolute value of 2.0. Differences were uncovered for incident location at the institutional-level, $F(2, 81) = 12.99, p < .001, \eta^2 = .24$, with significant mean differences between the average rate of off-campus incidents at Public 4-Year IHEs and Community Colleges, $t(27) = -3.59, p < .001, d = 1.27$. Analyses did not demonstrate any significant differences regarding incidents involving a non-student perpetrator by IHE type.

Table 3. Comparison of Internally Reported Sexual Misconduct Incidents for Institutions of Higher Education by Institution Type: Academic Year 2015

	4-Year Public IHEs		Community Colleges		Independent IHEs		χ^2	df	n	p	V
Incident Type							44.35	4	1032	<.001	.15
Sexual Assault I	152	24.79%	9	5.35%	76	30.28%					
Sexual Assault II	52	8.48%	19	11.30%	33	13.15%					
“Other” Sexual Misconduct	409	66.72%	140	83.33%	142	56.57%					
Total Incidents	634	60.15%	169	16.03%	251	23.80%					
Time to Report							22.62	4	1054	<.001	.15
Number reported within 24 hours	178	28.08%	75	44.38%	71	28.29%					
Number reported same semester	320	50.47%	74	43.79%	119	47.41%					
Number reported after a semester or more	136	21.45%	20	11.83%	61	24.30%					
Number with non-student perpetrator/s	281	44.32%	66	39.05%	105	41.83%	1.26	2	1054	0.53	.04
Incident Location							16.63	2	966	<.001	.13
On campus or school sponsored activity	332	52.37%	118	69.82%	155	61.75%					
Off campus	246	38.80%	48	28.40%	67	26.69%					

Note. Bolded type indicates significant differences in the expected versus observed frequencies as determined by standardized residuals +/-2.

4-Year Public IHE “incident type” n= 613 because Title IX Coordinators had too little information to classify 21 cases; Community Colleges incident type n = 168 because Title IX Coordinators had too little information to classify 1 case. A small number of incidents reported across IHE types occurred at an “undisclosed location”: 8.83% at 4-Year Public IHEs, 1.77% at Community Colleges, and 11.55% at Independent IHEs.

Table 4: Comparison of Internally Reported Institutional-Level Data for Sexual Misconduct Incidents by Institution Type: Academic Year 2015

	4-Year Public IHEs (<i>N</i> =13)		Community Colleges (<i>N</i> =16)		Independent IHEs (<i>N</i> =13)		<i>F</i>	df	<i>P</i>	η^2
	<u>M (SD)</u>	Range	<u>M (SD)</u>	Range	<u>M (SD)</u>	Range				
Incident Type							9.42	2, 123	<.001	.13
Sexual Assault I	11.69 ^a (10.76)	1-37	0.56 ^b (0.93)	0-3	5.85 ^{a, b} (5.56)	0-18				
Sexual Assault II	4.00 ^a (4.99)	2-18	1.27 ^a (1.88)	0-6	2.54 ^a (1.87)	0-6				
“Other” Sexual Misconduct	31.46 ^a (28.32)	23-111	8.75 ^a (8.94)	0-31	10.92 ^a (11.45)	0-33				
Time to Report							15.25	2, 123	<.001	.20
Number reported within 24 hours	13.69 ^a (13.03)	0-52	4.69 ^a (7.21)	0-30	5.46 ^a (5.30)	0-18				
Number reported in the same semester	24.62 ^a (21.67)	2-77	4.63 ^b (4.43)	0-13	9.15 ^{a, b} (9.70)	0-35				
Number reported after a semester or more	10.46 ^a (11.72)	0-37	1.25 ^a (1.95)	0-6	4.69 ^a (5.08)	0-15				
Number with non-student perpetrator/s	21.62 ^a (19.31)	2-59	4.13 ^a (6.03)	0-22	8.08 ^a (7.95)	0-23	7.27	2, 39	.002	.27
Incident Location							12.99	2, 81	<.001	.24
On campus or school sponsored activity	25.54 ^a (22.51)	1-78	7.38 ^a (7.47)	0-24	11.92 ^a (9.31)	0-27				
Off campus	18.92 ^a (17.26)	1-61	3.00 ^b (3.94)	0-14	5.15 ^{a, b} (6.57)	0-23				

Note. Means in rows without a common superscript are significantly different from each other at $p < .001$.

4-Year Public IHE “incident type” $n = 613$ because Title IX Coordinators had too little information to classify 21 cases. Community Colleges incident type $n = 168$ because Title IX Coordinators had too little information to classify 1 case. A small number of incidents reported across IHE types occurred at an “undisclosed location”: 8.8% at 4-Year Public IHEs, 1.8% at Community Colleges, and 11.6% at Independent IHEs.

Incident- and institutional-level analyses were also completed for variables related to case processing and outcomes (see Tables 5 and 6). Significant differences were uncovered regarding the observed versus expected rate of incidents reported to law enforcement across IHE type, $\chi^2(2, 299) = 58.78, p < .001$, with a moderate effect size, $V = .24$. Post-hoc tests further demonstrated that, as hypothesized (hypothesis 8), incidents at Public 4-Year IHEs were reported to law enforcement at significantly greater rates ($z = 3.8$); the rate of reporting to law enforcement was also significantly lower than would be expected by chance at Independent IHEs ($z = -5.2$). Institutional-level differences in reporting to law enforcement were also uncovered $F(2, 39) = 10.65, p < .001, \eta^2 = .35$. Mean differences were found between the average number of incidents reported to law enforcement at 4-Year Public IHEs and both Community Colleges and Independent IHEs, respectively, $t(27) = -3.98, p < .001, d = 1.41$ and, $t(27) = 3.69, p < .001, d = 1.45$.

Significant differences were also identified regarding findings of responsibility for code of conduct violations across IHE type, $\chi^2(2) = 33.89, p < .001$; the effect size was small to medium, $V = .18$. Post-hoc tests indicated that contrary to expectations presented in hypothesis 10, Community Colleges, not 4-Year Public IHEs, reported finding students responsible for violating their code of conduct at significantly greater rates ($z = 5.0$). No significant institutional-level differences were identified for findings of responsibility. In addition, no significant differences were found regarding the expected versus the actual proportion of formal Title IX complaints by IHE type at the incident or institutional level.

Although disciplinary actions and accommodations were not mutually exclusive and thus not subject to significance tests, some patterns did appear across IHE type. The highest rate of suspensions was observed at 4-Year Public IHEs (33.33% versus 26.83% at Community

Colleges and 23.81% at Independent IHEs) while similar rates of expulsions and “other” sanctions were observed across IHE types. In addition, Independent IHEs had the highest rate of appeals, 61.90% of founded incidents, compared to 35.09% and 7.32% of founded incidents, respectively, at 4-Year Public IHEs and at Community Colleges. Finally, regarding accommodations, which again were not mutually exclusive, alternative housing was most often used at Independent IHEs (14.74%), while the rate of referrals to counseling/health services was highest at Public 4-Year IHEs (77.92%). The rates of no-contact/stay away orders (38.46%), interim suspensions (7.10%), academic accommodations (24.85%), and “other” accommodations (23.08%) were highest at Community Colleges.

Table 5: Comparison of Internally Reported Title IX Processes and Case Outcomes for Institutions of Higher Education by Institution Type: Academic Year 2015

	4-Year Public IHEs		Community Colleges		Independent IHEs		χ^2	df	<i>n</i>	<i>P</i>	<i>V</i>
Reports to law enforcement	230	36.28%	41	24.26%	28	11.16%	58.78	2	1054	<.001	.24
Formal Title IX complaints	151	23.82%	54	31.95%	53	21.12%	6.58	2	1054	.04	.08
Finding of responsibility	57	37.74%	41	75.93%	21	39.62%	33.89	2	1054	<.001	.18
Disciplinary Action											
Suspension	19	33.33%	11	26.83%	5	23.81%					
Expulsion	10	17.54%	7	17.07%	4	19.05%					
Other	31	54.39%	24	58.54%	13	61.90%					
Appeals	20	35.09%	3	7.32%	13	61.90%					
Accommodation											
Alternative housing	27	4.26%	3	1.78%	37	14.74%					
Referral to counseling/health services	494	77.92%	115	68.05%	146	58.17%					
No-contact order or stay away order	155	24.45%	65	38.46%	87	34.66%					
Interim suspension	31	4.89%	12	7.10%	9	3.59%					
Other	123	19.40%	39	23.08%	55	21.91%					

Note. Superscripts indicate significant differences in the expected versus observed frequencies as determined by standardized residuals +/-2. More than one disciplinary action could occur for each formal complaint. Multiple accommodations could be made for each incident.

Table 6: Comparison of Institutional-Level Data for Title IX Processes and Case Outcomes by Institution Type: Academic Year 2015

	4-Year Public IHEs (N=13)		Community Colleges (N=16)		Independent IHEs (N=13)		<i>F</i>	df	<i>p</i>	η^2
	<u>M (SD)</u>	Range	<u>M (SD)</u>	Range	<u>M (SD)</u>	Range				
Reports to law enforcement	17.69 ^a (14.97)	1-60	2.56 ^b (2.67)	0-9	2.15 ^b (2.44)	0-8	10.65	2, 39	<.001	.35
Formal Title IX complaints	11.62 ^a (8.07)	0-29	3.38 ^a (3.62)	0-14	4.08 ^a (4.92)	0-17	8.07	2, 123	.001	.29
Finding of responsibility	4.39 ^a (3.67)	0-12	2.56 ^a (3.20)	0-13	1.62 ^a (1.78)	0-5	2.65	2, 39	.08	.12
Disciplinary Action										
Suspension	1.46 (1.74)	0-5	0.73 (0.85)	0-3	0.33 (0.62)	0-2				
Expulsion	0.77 (1.05)	0-3	0.44 (0.79)	0-2	0.46 (0.66)	0-2				
Other	2.38 (2.40)	0-6	1.60 (3.18)	0-13	1.18 (1.40)	0-5				
Appeals	1.54 (1.50)	0-5	0.19 (0.53)	0-2	1.08 (1.11)	0-3				
Accommodation										
Alternative Housing	2.08 (2.30)	0-8	0.19 (0.53)	0-2	2.85 (6.00)	0-21				
Referral to counseling/health services	38.00 (40.19)	0-151	7.19 (8.78)	0-26	11.23 (9.86)	0-37				
No-contact order or stay away order	11.92 (10.60)	0-36	4.06 (4.75)	0-18	6.69 (5.19)	0-17				
Interim suspension	2.38 (1.98)	0-7	0.75 (1.20)	0-4	0.69 (0.99)	0-3				
Academic accommodations	8.85 (8.11)	0-26	2.80 (4.28)	0-16	4.39 (5.20)	0-18				
Other	10.25 (11.11)	0-35	2.79 (5.35)	0-21	4.23 (6.14)	0-18				

Note. Means in rows without a common superscript are significantly different from each other at $p < .001$.

More than one disciplinary action could occur for each formal complaint. Multiple accommodations could be made for each incident.

Discussion

Publicly available data from Annual Security Reports and data internally reported to Title IX Coordinators established that the majority of incidents of gender-based violence reported by students at Public 4-Year IHEs, Community Colleges, and Independent IHEs in the sampled state comprised “Other” Sexual Misconduct (e.g., sexual harassment, dating violence, domestic violence, or stalking) compared to Sexual Assault I (e.g., non-consensual sexual intercourse) or Sexual Assault II (e.g., non-consensual sexual contact); however, a comparison of these publicly reported and internally reported data sources demonstrated that Annual Security Reports are inadequate data sources regarding the number of incidents of gender-based violence reported on college campuses.

An examination of the context, processes, and outcomes of incidents of gender-based violence internally reported to Title IX Coordinators revealed that only about one-third of incidents were reported within the same semester, and more than half of incidents included only student perpetrators and took place on campus or at a school-sponsored activity. In addition, more incidents of gender-based violence reported to Title IX Coordinators were reported to law enforcement than were processed through the formal Title IX complaint process. When incidents were formally processed, the majority of accused students were not found responsible for violating the IHE’s code of sexual misconduct and students received a suspension or expulsion in less than half of cases with a finding of responsibility. A wide range of victim accommodations were associated with incidents reported to Title IX Coordinators with nearly two-thirds of student victims receiving referrals to counseling, nearly one-third receiving assistance with a no-contact order, and approximately one in five receiving academic accommodations. Analyses by IHE type suggested that contrary to conventional wisdom and the hypotheses presented here,

reports of sexual misconduct, case processing, and victim accommodations were not concentrated at 4-Year Public IHEs. Instead, findings showed that Title IX Coordinators at Community Colleges and Independent IHEs received a significant portion of the reports of sexual misconduct and many of these incidents involved student perpetrators and occurred on campus or at a school sponsored activity. Further, there was significant institutional-level variability in the prevalence and context of reported incidents of sexual misconduct.

Improving Annual Security Reports

Consistent with the prior limited research (Krebs et al., 2016; Yung, 2015), the number of publicly reported incidents of sexual misconduct were lower than internally reported incidents: Annual Security Reports only captured about half of the incidents of Sexual Assault I and II and about one third of the “Other” sexual misconduct cases reported to Title IX Coordinators. The sheer number of cases “lost” using only official reporting mechanisms underscores the undercounting of incidents in official statistics. An analogous example could be drawn from comparisons of reports of gender-based violence in the data from the Uniform Crime Report (i.e., law enforcement incident information) and the National Crime Victimization Survey (i.e., reports from victims of crime); the longstanding discrepancies between these two datasets highlight the great informational loss that is attributed to reliance on reports to law enforcement alone to understand gender-based violence. Thus, the findings reported here demonstrate the need for better data collection mechanisms that provide publicly available information on reports of sexual misconduct from victims. State legislators in Louisiana and Virginia, for example, have proposed such measures, but they have yet to pass the full legislative bodies and be signed into law (Richards & Kafonek, 2015).

At the same time, the utility of Annual Security Reports in regard to understanding

gender-based violence on college campuses could be improved by expanding the types of offenses for which data on “arrests” and “referrals for disciplinary action” are presented to include sex offenses, dating violence, domestic violence, and stalking. Currently, Annual Security Reports only present the number of arrests and referrals for disciplinary action associated with incidents of liquor law violations, drug abuse violations, and illegal weapons possessions. The inclusion of such information for incidents of gender-based violence data would provide an additional avenue for transparency regarding the IHE’s response to gender-based violence as well as an incentive for campus security authorities to take gender-based violence seriously. At the same time, strategies would have to be in place to protect a victim’s choice in regard to any “formal” response (i.e., victims have the right to notify or decline to notify law enforcement and file or decline to file a formal Title IX complaint). To this end, Annual Security Reports could include an additional data field that presents the number of cases where the victim declined formal intervention (via a formal Title IX complaint or the filing of criminal charges).

IHE Responses to Reports of Gender-Based Violence

These data show that the primary outcome of reports of gender-based violence to Title IX Coordinators include accommodations to victims, not punishment to perpetrators: academic accommodations and victim referrals to services made-up the majority of the on-campus response to gender-based violence. So, at least in the sampled state, during the 2015-2016 academic year, there does not seem to be evidence of what the Secretary of Education has described as “weaponized Title IX” (Kurtz, 2017) being used to suspend and expel accused students en masse. The opposite seems to be true: few students actually used the campus administrative process, and when they did and there was a finding of responsibility, there was

little guarantee that the responsible student would be removed from campus. These findings are consistent with the limited existing empirical data showing that suspension and expulsion are not routinely used by IHEs in cases of sexual misconduct (Kingkade, 2016).

Further, a greater number of incidents were referred to law enforcement than were processed through the formal Title IX process. Victimization survey data showing underreporting of incidents of gender-based violence has long frustrated law enforcement officers and victim service providers. The reporting rates identified here (28.4%) are higher than the top-end figure from previous research (i.e., 22% of rapes and 17% of sexual assaults were reported to police; Sloan et al., 1997), which may indicate that students are reporting gender-based violence to law enforcement at increased rates. However, this interpretation must be made with significant caution until other research produces similar results.

When the circumstances surrounding incidents of gender-based violence reported to Title IX Coordinators were unpacked, findings indicated that the majority of incidents involved student perpetrator(s) and occurred on campus or at a school sponsored activity. These findings are consistent with prior research on the context of sexual assault among college students and provide support for continuing to target the campus community in regard to prevention programs and education and awareness campaigns. Further, these data show that among cases that were reported, most victims did not report immediately, highlighting the need to empower students with information about evidence retention given that many students decided to report in the days or months after their victimization. Prior research from Richards (2016) showed that the majority of IHEs in a nationally representative sample included statements in their sexual assault awareness information about how showering, brushing one's teeth, and/or changing one's clothes after a sexual assault could destroy evidence. This information should be widely

disseminated to students. It would also be useful for IHEs to expand this information to include instructions on preserving documentation (e.g., saving unwanted text messages, emails, voicemails, gifts, etc.) in cases of stalking and/or sexual harassment.

Focus Attention on Community Colleges and Independent IHEs

Findings also suggest that greater attention must be paid to gender-based violence at Community Colleges and Independent IHEs. Currently, the bulk of the prior research on campus gender-based violence stems from large, public universities with traditional undergraduate populations, so little is known about the experiences and needs of students at other types of IHEs (Schragg, 2017). At the same time, community colleges serve almost half of the undergraduate students in the United States, with the majority of Black and Hispanic undergraduate students attending community colleges (American Association of Community Colleges, 2015). The American Association of Community Colleges (2015) acknowledges that, “While Title IX and OCR guidance has been in existence for many years, Title IX compliance does not systemically appear to be a priority for community colleges” (p. 5). This consensus is consistent with research from Richards (2016) that found that 2-year IHEs identified many fewer gender-based violence education and awareness opportunities, accommodations, and victim services than 4-year public and private IHEs. Likewise, given that many Independent IHEs are small there may be challenges regarding resource allocation for victim services and victims may fear reporting or accessing services in their intimate campus community. Victims attending religiously affiliated IHEs may face additional barriers in reporting and service access if their IHE utilizes an “honor code” (Brown, 2016).

Limitations and Future Research

While the present research provides novel information on incidents of gender-based violence reported on college campuses, several limitations must be acknowledged. First, in line with prior research by Yung (2015) showing a surge in Annual Security Reports' sexual assault data during a Department of Education audit, the Annual Security Report data reported here may have been positively impacted by IHEs' knowledge that it would be required to submit data on sexual misconduct reported to Title IX Coordinators to the state Commission; however, a review of 2014 Annual Security Report data did not demonstrate a significant year-over-year uptick in public reporting (data available from the author upon request).

Some of the differences between the publicly reported and internally reported incidents are likely attributed to the slightly different reporting periods (academic year versus calendar year); however, the infamous "red zone" – the days immediately prior to the beginning of the semester and the first few weeks of the semester – when students are at the highest risk for sexual misconduct (Krebs et al., 2007) was captured by both data sources. In addition, differences in the definitions used in Annual Security Reports versus those used in Title IX antidiscrimination statements as well as some duplicate reports of the same incident by third party referrals also likely impacted these data. Finally, approximately 34% of incidents reported to Title IX Coordinators occurred at off-campus locations that may not have fallen within the IHE's Clery geography and would not be expected to be reflected in the Annual Security Reports.

Although the data from Title IX Coordinators allowed for a unique examination of the context, processing, and outcomes of incidents, given that the Commission's data collection strategy focused on counts of different data points (i.e., how many of each type of incident were

reported, how many incidents were reported within 24 hours) it was not possible for in-depth examination of different types of incidents at the multivariate level. A critical next step in this line of inquiry is to develop an incident level database so that predictors of outcomes (e.g., what types of cases are most likely to result in a formal Title IX complaint) can be examined. In addition to the types of information presented here, in cases where a formal Title IX case is not pursued, it would be useful to collect information on this decision-making process. Important differences may be uncovered regarding when and why a victim chooses to pursue a formal complaint versus only accessing accommodations and when and what types of cases come to the attention of Title IX Coordinators through third party referrals without any victim participation. Results could be crucial to better tailoring information and awareness campaigns and victim services. Further, there would be transparency in regard to why students are or are not using Title IX protections for campus- and state-level oversight bodies.

Likewise, the institutional-level analysis reported here shows wide variation between institutions regarding the number and type of incidents reported to Title IX Coordinators, time to reporting, the number of incidents reported to law enforcement, and the number of incidents with a finding of responsibility, among other differences. Such variation is likely associated with both individual case level factors (e.g., strength of evidence) as well as IHE policy-related factors (e.g., whether an IHE has confidential reporting options). Future research should focus on identifying case and institutional level factors that are predictive of different case processes and outcomes; however, robust data sources are necessary to advance this research.

It is also important to note that the data presented here include cases of gender-based violence that came to the attention of Title IX Coordinators. It does not include the universe of cases that went unnoticed or unreported. As such, the reasons for differences in incident rates are

not wholly clear. For example, it may be that the significant resources and attention on awareness and prevention being levied at the “traditional” 4-Year Public IHEs are making an impact on gender-based violence such that incident rates are declining, or it might indicate that students are still experiencing significant barriers in reporting. Continued data collection is paramount to detecting whether trends develop, continue, and/or change over time.

Conclusion

The research and advocacy communities have been forced to prove and reprove that the problem of campus sexual misconduct exists. Policy makers, administrators, and individuals who are not yet convinced about the urgency of this problem may never be persuaded. Among those who are, there must be a concerted effort to move the research agenda and associated debate from prevalence to response. More information about the accommodations offered to students, timelines to complaint resolution, outcomes of formal complaints, and outcomes of appeals is needed, and this information must be available at the incident level with accompanying demographic and contextual information. More information about when and how reports to law enforcement take place and the outcomes of those reports is also necessary. To answer these important questions and others, university systems, or better yet, state governments must have the courage and political will to collect this information and make it available for scientific analysis and public consumption. The sampled state has paved the way in this effort, so the pressure of “being first” has been eliminated. The question now remains, who dares to be last?

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